

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.	:	10/698,564	Confirmation No. 1121
Applicant	:	Tapesh Yadav	
Filed	:	October 31, 2003	
Title:	:	HIGH VOLUME MANUFACTURING OF NANOPARTICLES AND NANO-DISPERSED PARTICLES AT LOW COST	
TC/A.U.	:	1792	
Examiner	:	Elena Tsoy Lightfoot	
Docket No.	:	037768-0173	
Customer No.	:	24959	

REPLY BRIEF

Mail Stop Appeal Brief – Patents
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

December 28, 2009

Sir:

Appellant hereby submits this Reply Brief in response to the Examiner's Answer mailed October 26, 2009. This Reply Brief is timely filed, as December 26th fell on a Saturday.

The Real Party In Interest; Related Appeals and Interferences; Status of Claims; Status of Amendments; Summary of Claimed Subject Matter; Claims Appendix; Evidence Appendix; and Related Proceedings Appendix, all remain as set forth in the Appeal Brief. In the Examiner's Answer, the Examiner has withdrawn grounds I-III (rejections under 35 U.S.C. § 112) identified in the Grounds of Rejection set forth in the Appeal Brief. Accordingly, grounds IV-VII (rejections under 35 U.S.C. § 103(a)) in the Grounds of Rejection remain to be reviewed on Appeal.

ARGUMENT

The Arguments set forth in the Appeal Brief are hereby maintained. This Reply Brief addresses the Response to Argument, in Section (10) of the Examiner's Answer.

In Section (10) of the Examiner's Answer, the Examiner maintains that "selection of **any order** of mixing ingredients is *prima facie* obvious; and also selection of **any order** of performing process steps is prima facie obvious in the absence of new or unexpected results."

Appellant, however, is not contesting whether the order of mixing ingredients is *prima facie* obvious or not, but rather submitting that the references ***do not teach the claimed steps*** and therefore a *prima facie* case of obviousness has not been established. Appellant submits, ***as conceded by the Examiner***, that Umeya does not teach or suggest at least preparing a mixture of one or more metal-containing precursors and carrier particles to create a slurry precursor (See Appeal Brief, last paragraph, page 15) as recited in independent Claim 1. Furthermore, Bickmore, Konig and Holzl also fail to teach or suggest preparing a mixture to create a slurry precursor. In the Examiner's Answer, the Examiner even states that "Bickmore is a secondary reference which is relied upon to show how to stop nucleation...thus it is irrelevant whether Bickmore shows "slurry" or not." Thus, none of the references cited by the Examiner, alone or in any combination, teach or suggest at least the first step of the claimed method, as conceded by the Examiner.

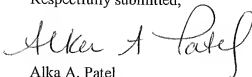
Rearranging the order of the steps as argued by the Examiner is irrelevant in this case because the cited references themselves do not teach the claimed steps. The claimed method does not include rearranging the order of the ingredients, but rather creating a slurry of two ingredients, which the cited references fail to teach or suggest. Clearly the Appellant has ***not*** rearranged the order of mixing the ingredients, but rather is **claiming a different method of manufacturing powder** than taught or disclosed in any of the cited references.

SUMMARY

In view of the foregoing, the Appellant respectfully submits that the rejection of Claims 1, 4, 6, 11-15, 17, 18, 20, 27, and 31-35 under 35 U.S.C. § 103(a) are improper and should be

reversed. It is respectfully requested that the case is in condition for allowance and, as such, that the case be remanded to the Examiner for the appropriate action.

Respectfully submitted,



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